IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEX

HOUSTON DIVISION

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inited States Courts SOUTHERN DISTRICT OF TEXAS

FILED

ELIDA L. OUINONEZ, JOSE MARIA OUINONEZ and EDWIN OUINONEZ, On Behalf of Themselves and

Each Employee Similarly Situated,

Plaintiffs.

v.

SYNTECOS INC. and SOJI SERVICES INC., §

Defendants.

FEB 2.4 2005

IMCHAEL N. MILBY, CLERK OF COURT

Civil Action 5

UNITED STATES COURTS SOUTHERN DISTRICT OF TEXAS FILED

FEB 2 4 2005

MICHAEL N. MILBY, CLERK OF COURT

PLAINTIFFS' ORIGINAL COMPLAINT - COLLECTIVE ACTION

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TO THE HONORABLE JUDGE OF SAID COURT:

I. PARTIES

- Plaintiff ELIDA L. QUINONEZ an individual and resident of Harris County, Texas. 1. Elida Quinonez's written consent is attached as Exhibit "A."
- Plaintiff JOSE MARIA QUINONEZ is an individual and resident of Harris County, 2. Texas. Jose Maria Quinonez's written consent is attached as Exhibit "B."
- Plaintiff EDWIN QUINONEZ is an individual and resident of Harris County, Texas. 3. Edwin Ouinonez's written consent is attached as Exhibit "C."
- Defendant SYNTECOS INC. is a Texas corporation with its principal place of business 4. in Harris, Texas and can be served with process through its registered agent: Luisa Constantini 2319 Shakespeare, Houston, Texas 77030. Issuance of Summons is requested at this time. Plaintiffs will have service perfected by a private process server and in accordance with the Federal Rules of Civil Procedure.

- 5. Defendant SOJI SERVICES INC. is a Texas corporation with its principal place of business in Harris County, Texas and can be served with process through its registered agent: Phillips & Reiter, PLLC, 9525 Bissonnet, Suite 200, Houston, Texas 77036. Issuance of Summons is requested at this time. Plaintiffs will have service perfected by a private process server and in accordance with the Federal Rules of Civil Procedure.
- 6. The PUTATIVE CLASS consists of similarly situated cleaning service workers who have and do perform similar duties as Plaintiffs while working for Defendants.

II. JURISDICTION AND VENUE

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- 7. Plaintiffs hereby adopt and incorporate by reference the preceding paragraphs of this Complaint as if fully set forth herein.
- 8. The Court has jurisdiction over the subject matter of this action under 29 U.S.C. § 216(b). Specifically, on behalf of Plaintiffs and all other similarly situated cleaning service workers currently or formerly employed by Defendants, Plaintiffs seek declaratory relief and monetary damages for Defendants' willful violation of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201 (hereinafter "FLSA").
- 9. Venue is proper in the Southern District of Texas, Houston Division, as Defendants violated the federal statutes at issue (FLSA) in this District, thus all or a substantial part of the event or omissions giving rise to this claim occurred in the Southern District of Texas. See 28 U.S.C. § 1391(b)(2).

III. COVERAGE

- 10. Plaintiffs hereby adopt and incorporate by reference the preceding paragraphs of this Complaint as if fully set forth herein.
- 11. At all material times, Defendants were an "employer" within the meaning of § 3(d) of the FLSA. See 29 U.S.C. § 203(d).

- 12. At all material times, Defendants have been an enterprise, joint and/or singular, within the meaning of § 3(r) of the FLSA. See 29 U.S.C. § 203(r).
- 13. At all material times, Defendants have been an enterprise joint and/or singular, engaged in commerce or in the production of goods for commerce within the meaning of § 3(s)(1) of the FLSA because Defendants have employees engaged in commerce or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person. *See* 29 U.S.C. § 203(s)(1). Further, Defendants have had and continue to have an annual gross income of sales made or business done of not less than \$500,000.
- 14. At all material times, Plaintiffs were individual employees who were engaged in commerce or in the production of goods for commerce as required by 29 U.S.C. § 206-207.

IV. FACTS

- 15. Plaintiffs hereby adopt and incorporate by reference the preceding paragraphs of this Complaint as if fully set forth herein.
- 16. Plaintiffs were cleaning service workers for Defendants and regularly worked more than 40 hours per workweek.
- 17. Although Plaintiffs' duties were clearly those of non-exempt employees under the FLSA, Plaintiffs, and each employee similarly situated, were compensated at the regular rate of pay for all hours worked in a workweek. The Plaintiffs, and each employee similarly situated, worked as many as 50 hours per workweek, on a regular basis. Defendants paid Plaintiffs, and each employee similarly situated, a regular rate of pay per hour for every hour worked, including all hours worked over 40 hours per workweek.
- 18. Defendants engaged in an illegal pattern or practice of not paying Plaintiffs, and each employee similarly situated, time and one-half for hours worked over 40 hours per workweek.

- 19. Defendants committed this illegal pattern or practice willfully, recklessly, or with harmful disregard for Plaintiffs and each employee similarly situated.
- 20. Although Plaintiffs' duties were clearly those of non-exempt employees under the FLSA, Plaintiffs were paid the regular hourly wage for every hour worked, including hours over 40 hours per workweek.
- 21. Plaintiffs worked considerable hours over 40 for which Plaintiffs were not compensated at a rate of time and one-half times the regular rate of pay. The FLSA requires that non-exempt employees be paid time and one-half for all hours worked over 40 hours per workweek. *See* 29 U.S.C. § 207(a).
- 22. Plaintiffs are aware of other employees who have not been paid overtime wages for hours worked more than 40 hours per workweek. These employees are similarly situated employees because they were also cleaning service workers for Defendants. Plaintiffs, and each employee similarly situated, were required to work as many as 50 hours per workweek and were paid the same rate for every hour worked. Defendants willfully, recklessly, or with harmful disregard, ignored the FLSA's requirements when creating a practice or policy to pay Plaintiffs and each employee similarly situated, at a regular rate of pay for hours worked over 40 in a workweek. Defendants' practices or policies were created willfully, recklessly, or with harmful disregard. Defendants have followed this practice or policy for the past three years and longer.

V. COLLECTIVE ACTION ALLEGATIONS

- 24. Plaintiffs hereby adopt and incorporate by reference the preceding paragraphs of this Complaint as if fully set forth herein.
- 25. Although Defendants suffered, permitted, and/or required the Plaintiffs and the Putative Class to work more than 40 hours per week, Defendants paid Plaintiffs and those similarly situated at the regular rate of pay per hour for the hours worked greater than 40 per workweek.

- 26. Plaintiffs and the Putative Class regularly worked in excess of 40 hours per workweek, up to as much as 50 hours per workweek and were paid the same per hour rate for every hour. This compensation scheme was and is the policy and practice of Defendants.
- 27. Plaintiffs and the Putative Class are entitled to overtime compensation at "time-and-a-half" for all hours worked over 40 per workweek.
- 28. Defendants' regular and willful policy, pattern and practice of paying Plaintiffs and those similarly situated the regular hourly wage for hours worked over 40 violates the FLSA. See 29 U.S.C. § 207(a) and 215(a)(2).
- 29. Plaintiffs and the Putative Class are entitled to recover overtime compensation, liquidated damages, attorneys' fees, court costs, and prejudgment interest for Defendants willful violation of the FLSA.

VI. DAMAGES

- 30. Plaintiffs hereby adopt and incorporate by reference the preceding paragraphs of this Complaint as if fully set forth herein.
- Pleading further, Plaintiffs and each employee similarly situated that have joined this suit have suffered damages as a result of Defendants' above-described conduct. Therefore, Plaintiffs also demand judgment for: (1) compensatory damages equal to the unpaid wages, including applicable fringe benefits; (2) an equal amount in liquidated damages under the FLSA; (3) reasonable attorneys' fees and costs; and (4) pre-judgment interest. See 29 U.S.C. § 216(b).

VII. PRAYER

32. Plaintiffs hereby adopt and incorporate by reference the preceding paragraphs of this Complaint as if fully set forth herein.

- 33. For these reasons, Plaintiffs ask for judgment against Defendants for:
 - (1) Award of damages to which Plaintiffs are entitled;
 - (2) Award of interest on the damages;
 - (3) Reasonable attorneys' fees and costs; and
 - (4) All other and further relief, both in law and equity, to which Plaintiffs are justly entitled and which this Court deems just and proper.

Respectfully submitted,

SHANA O'NEAL CALDERON

SBOT No. 24006944

SDT No. 25315

OGLETREE ABBOTT LAW FIRM, L.L.P.

12600 N. Featherwood, Suite 200

Houston, Texas 77034

Telephone: (713) 910-1234 Facsimile: (281) 922-7228

ATTORNEY-IN-CHARGE

OF COUNSEL:

WILLIAM CORY ABBOTT SBOT No. 24006726 SABRINA JOY MOMMERS SBOT No. 24043833 WILLIAM OGLETREE SBOT No. 15234200 OGLETREE ABBOTT LAW FIRM, L.L.P.

12600 N. Featherwood, Suite 200

Houston, Texas 77034

Telephone: (713) 910-1234

Facsimile: (281) 922-7228

Exhibit A

OPTAR-ADENTRO FORMA DE CONSENTIMIENTO

Completa y enviar por correo a:
Ogletree Abbott Law Firm
12600 North Featherwood Drive, Suite 200
Houston, Texas 77034

Nombre: <u>ELIDA</u> QUINONEZ	Numero de seguridad social: 628-42-2641
Dirreción: 5800 DASKWOOD #116	Numero del telephono del trabajo: 713 - 660 - 6271
HOUSTON, TX 77081	Numero del telephono de la casa: 832.778. 9988
	Dirreción del correo electrónico:

CONSENTIMIENTO PARA JUNTAR ACCIÓN COLECTIVO Según la Fair Labor and Standards Act (FLSA) 29 U.S.C. § 216(b)

Yo consento y accedo a perseguir mis clamos orginando del trabajo en horas extras de un empleado de <u>E METRO CLEAN</u>, INC. (nombre de empleador). Mi posición con esta empleador era y/o es un(a) JANITOR (titúlo de posición).

Yo trabajé en está(s) posción(es) listado arriba comensando alrededor a $\frac{\sqrt{3}}{\sqrt{2}}$ (mes/año) hasta alrededor a $\frac{\sqrt{5}}{\sqrt{9}}$ (mes/año).

Durante de esta tiemp, yo trabajé mas que cuarenta (40) horas por semana, pero no me pagarón compensasión de horas extras por todas las horas que trabajé y/o no me compensaron por las horas extras.

Yo entiendo que esta pleito esta traedo de la Fair Labor and Standards Act of 1938 (FLSA), as amended, 29 U.S.C. §201. Yo consiento, accedo, y optar adentro para hacer una Demandante y para hacer obligado al cualquier juicio del Corte o cualquier arreglo de esta acción.

Yo designo a Ogltree Abbott Law Firm, L.L.P., que me representan para todos los efectos de esta acción.

Si yo no soy una Demandante de Nombre en el pleito, yo también designo la(s) Representate(s) del acción collectivo a mi(s) agente(s) para hacer decisiones departe de mi referente a la litigación, incluendo el método y manera de como conductar está litigación, entrar a un contracto de arreglo, entrar alguna contracto con Consular de Demandantés referentando emolumentos y cuestos, y todos las otras cuestiónes perteneciendo en está pleito.

Firma: ELIZAPUINON PL Fecha: 02/15/05

** Nota**

Ley de prescripción mandato que usted regresa esta forma <u>el mas rápido posible</u> para presevar sus derechos.

Exhibit B

OPTAR-ADENTRO FORMA DE CONSENTIMIENTO

Completa y enviar por correo a:
Ogletree Abbott Law Firm
12600 North Featherwood Drive, Suite 200
Houston, Texas 77034

Nombre: JOSE MARIA QUINONEZ	Numero de seguridad social: 627-03-3/28
Dirreción: <u>5800 DASH Wood</u> #116	Numero del telephono del trabajo: 713-660-627)
HOUSTON, TX 77081	Numero del telephono de la casa: 832-778 - 9988
	Dirreción del correo electrónico:

CONSENTIMIENTO PARA JUNTAR ACCIÓN COLECTIVO Según la Fair Labor and Standards Act (FLSA) 29 U.S.C. § 216(b)

Yo consento y accedo a perseguir mis clamos	orginando del trabajo en horas extras de un
empleado de METRO CLEAN, INC.	(nombre de empleador). Mi
posición con esta empleador era y/o es un(a)	
posición).	

Yo trabajé en está(s) posción(es) listado arriba comensando alrededor a 47/23/61 (mes/año) hasta alrededor a MESENT (mes/año).

Durante de esta tiemp, yo trabajé mas que cuarenta (40) horas por semana, pero no me pagarón compensasión de horas extras por todas las horas que trabajé y/o no me compensaron por las horas extras.

Yo entiendo que esta pleito esta traedo de la Fair Labor and Standards Act of 1938 (FLSA), as amended, 29 U.S.C. §201. Yo consiento, accedo, y optar adentro para hacer una Demandante y para hacer obligado al cualquier juicio del Corte o cualquier arreglo de esta acción.

Yo designo a Ogltree Abbott Law Firm, L.L.P., que me representan para todos los efectos de esta acción.

Si yo no soy una Demandante de Nombre en el pleito, yo también designo la(s) Representate(s) del acción collectivo a mi(s) agente(s) para hacer decisiones departe de mi referente a la litigación, incluendo el método y manera de como conductar está litigación, entrar a un contracto de arreglo, entrar alguna contracto con Consular de Demandantés referentando emolumentos y cuestos, y todos las otras cuestiónes perteneciendo en está pleito.

Firma: 962/15/\$5

** Nota**

Ley de prescripción mandato que usted regresa esta forma <u>el mas rápido posible</u> para presevar sus derechos.

Exhibit C

OPTAR-ADENTRO FORMA DE CONSENTIMIENTO

Completa y enviar por correo a:
Ogletree Abbott Law Firm
12600 North Featherwood Drive, Suite 200
Houston, Texas 77034

Nombre: EDWIN QUINOMEZ	Numero de seguridad social: <u>625-28-90</u> 87
Dirreción: 5800 DASHWOOD #116	Numero del telephono del trabajo: 713 - 253 - 970 &
HOUSTON, TX 77081	Numero del telephono de la casa: 332 778- 9988
	Dirreción del correo electrónico:

CONSENTIMIENTO PARA JUNTAR ACCIÓN COLECTIVO Según la Fair Labor and Standards Act (FLSA) 29 U.S.C. § 216(b)

Yo consento y accedo a perseguir mis clamos orginando del trabajo en horas extras de un empleado de METRO CLEAN, INC. (nombre de empleador). Mi posición con esta empleador era y/o es un(a) FLOOR MAN (MARTIN, ER) (titúlo de posición).

Yo trabajé en está(s) posción(es) listado arriba comensando alrededor a 11/11/ØZ (mes/año) hasta alrededor a 98/31/Ø4 (mes/año).

Durante de esta tiemp, yo trabajé mas que cuarenta (40) horas por semana, pero no me pagarón compensasión de horas extras por todas las horas que trabajé y/o no me compensaron por las horas extras.

Yo entiendo que esta pleito esta traedo de la Fair Labor and Standards Act of 1938 (FLSA), as amended, 29 U.S.C. §201. Yo consiento, accedo, y optar adentro para hacer una Demandante y para hacer obligado al cualquier juicio del Corte o cualquier arreglo de esta acción.

Yo designo a Ogltree Abbott Law Firm, L.L.P., que me representan para todos los efectos de esta acción.

Si yo no soy una Demandante de Nombre en el pleito, yo también designo la(s) Representate(s) del acción collectivo a mi(s) agente(s) para hacer decisiones departe de mi referente a la litigación, incluendo el método y manera de como conductar está litigación, entrar a un contracto de arreglo, entrar alguna contracto con Consular de Demandantés referentando emolumentos y cuestos, y todos las otras cuestiónes perteneciendo en está pleito.

Firma: 6 | Pecha: \$2/15/\$5

** Nota**

Ley de prescripción mandato que usted regresa esta forma <u>el mas rápido posible</u> para presevar sus derechos.

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(b) County of Residence of First Listed Plaintiff Harris County (EXCEPT IN U.S. PLAINTIFF CASES)				County of Residence of First Listed Defendant Harris County (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF			
(c) Attorney's (Firm Name,	Address, and Telephone Number	<u> </u>		Attorneys (If Known)	INVOLVED.		
The Ogletree Abbot 12600 N. Featherw Houston, Texas 770 Telephone: 713-22: II. BASIS OF JURISD	tt Law Firm Shana (ood, Suite 200 Attorne)'Neal Calderon y-In-Charge			H - 0.5	6-610	
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□ 150 Recovery of Overpayment	☐ 320 Assault, Libel &	Product Liability		630 Liquor Laws	PROPERTY RIGHTS	☐ 460 Deportation	
& Enforcement of Judgment 151 Medicare Act	Slander 330 Federal Employers'	368 Asbestos Personal Injury Product		640 R.R. & Truck 650 Airline Regs.	☐ 820 Copyrights ☐ 830 Patent	470 Racketeer Influenced and Corrupt Organizations	
☐ 152 Recovery of Defaulted Student Loans	Liability 340 Marine	Liability PERSONAL PROPERT	Y	660 Occupational Safety/Health	840 Trademark	☐ 480 Consumer Credit☐ 490 Cable/Sat TV	
(Excl. Veterans) 153 Recovery of Overpayment	345 Marine Product Liability	☐ 370 Other Fraud ☐ 371 Truth in Lending	<u> </u>	690 Other LABOR	SOCIAL SECURITY	□ 810 Selective Service □ 850 Securities/Commodities/	
of Veteran's Benefits 160 Stockholders' Suits	☐ 350 Motor Vehicle ☐ 355 Motor Vehicle	380 Other Personal Property Damage		710 Fair Labor Standards Act	☐ 861 HIA (1395ff) ☐ 862 Black Lung (923)	Exchange B75 Customer Challenge	
☐ 190 Other Contract	Product Liability	☐ 385 Property Damage		720 Labor/Mgmt. Relations	☐ 863 DIWC/DIWW (405(g))	12 USC 3410	
☐ 195 Contract Product Liability ☐ 196 Franchise	360 Other Personal Injury	Product Liability		730 Labor/Mgmt.Reporting & Disclosure Act	□ 864 SSID Title XVI □ 865 RSI (405(g))	☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts	
REAL PROPERTY 210 Land Condemnation	CIVIL RIGHTS 441 Voting	PRISONER PETITIONS 510 Motions to Vacate		740 Railway Labor Act 790 Other Labor Litigation	FEDERAL TAX SUITS © 870 Taxes (U.S. Plaintiff	☐ 892 Economic Stabilization Act ☐ 893 Environmental Matters	
☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment	442 Employment 443 Housing/	Sentence		791 Empl. Ret. Inc.	or Defendant)	☐ 894 Energy Allocation Act	
☐ 240 Torts to Land	Accommodations	Habeas Corpus: 530 General		Security Act	☐ 871 IRS—Third Party 26 USC 7609	☐ 895 Freedom of Information Act	
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VIII. RELATED CASE IF ANY	(See instructions):	JUDGE			DOCKET NUMBER		
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